

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

STORUS CORPORATION,

Plaintiff,

v.

RESTORATION HARDWARE, INC., et al.,

Defendants

No. C-06-2454 MMC

**ORDER GRANTING PLAINTIFF'S
MOTION TO DISMISS COUNTERCLAIM
FOR INVALIDITY AND TO STRIKE
AFFIRMATIVE DEFENSES**

Before the Court is plaintiff/counter-defendant Storus Corporation's "Motion to Dismiss Defendants' and Counterclaimants' Counterclaim for Invalidity and to Strike Affirmative Defenses," filed October 27, 2006. Defendant/counterclaimant Aroa Marketing, Inc. and defendant Skymall, Inc. have not filed opposition or any other response to the motion. Having considered the moving papers, the Court hereby GRANTS the motion,¹ good cause appearing and in light of defendants' having advised plaintiff that defendants "elected not to proceed on [the] invalidity contentions." (See Zynczak Decl. Ex. C.)

Accordingly, the First Counterclaim for Declaratory Relief of Patent Non-Infringement, contained in the Answer filed June 29, 2006, is hereby DISMISSED pursuant

¹By order filed November 28, 2006, the Court vacated the hearing scheduled for December 8, 2006.

1 to Rule 41(b) of the Federal Rules of Civil Procedure, and ¶¶ 7 and 8 of the Affirmative
2 Defenses section of the Answer are hereby STRICKEN pursuant to Rule 12(f).

3 **IT IS SO ORDERED.**

4 Dated: December 7, 2006


MAXINE M. CHESNEY
United States District Judge